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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,810	01/23/2004	Cynthia C. Bamdad	M1015.70054US01	5010

7590 04/11/2006

Timothy J. Oyer, Ph.D  
Wolf, Greenfield & Sacks, P.C.  
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Boston, MA 02210

EXAMINER

DAVIS, DEBORAH A

ART UNIT PAPER NUMBER

1641

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/763,810	<b>Applicant(s)</b> BAMDAD ET AL.	
	<b>Examiner</b> Deborah A. Davis	<b>Art Unit</b> 1641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 1-13-06.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 121-131 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 121-131 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claim 121-123 and 130-131 are drawn to a method of determining the interactive characteristics of a sample, classified in class 436, subclass 518.
  - II. Claims 124-129 is drawn to a method determining an interaction pattern of first and second samples, classified in class 435, subclass 7.1.
2. This application contains claims directed to the following patentably distinct species: In addition, If applicant selects Group I, please pick one of the following species: Claim 130 the recite two surface regions, Claim 123 recite three surface regions, and Claim 122 that recite 10 surface regions. The species are independent or distinct because the search for one will not necessarily constitute the search for another.
3. The inventions of Group I and II are distinct, each from the other because of the following reasons:
4. Inventions I and II are patentable distinct methods. Both methods have different modes of operation and different effects. Group I only require one sample analysis and

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does not require a comparison step. Group II require two samples analysis and comparing the interaction pattern of the second sample with the interaction pattern of the first sample. Groups I and II are further materially distinct methods which differ at least in objectives, method steps, reagents and/or dosages and/ or schedules used, response variables, and criteria for success.

5. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification. Please note that classifications in the restriction are illustrative only and do not represent all the classes and subclasses which must be searched for each invention; nor is the search limited to issued US patents, but rather includes foreign patents and applications as well as literature searches, therefore restriction for examination purposes as indicated proper.

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species and in addition choose Group I or Group II to be examined even though the requirement be traversed.

The election of an invention or species and Group I and Group II may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

***Response to Arguments***

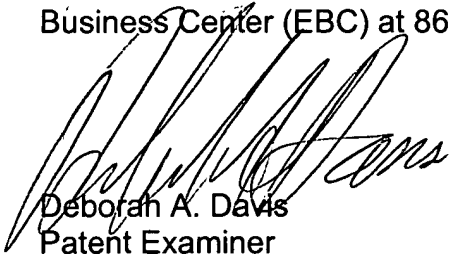
7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection above that has been subject to restriction due to the cancellation of examined subject matter and the addition of new claims.


***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah A. Davis whose telephone number is (571) 272-0818. The examiner can normally be reached on 8-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Deborah A. Davis  
Patent Examiner  
March 31, 2006

  
LONG V. LE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

04/03/06